

Senate File 444 - Reprinted

SENATE FILE 444
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO SSB 1106)

(As Amended and Passed by the Senate March 23, 2011)

A BILL FOR

1 An Act relating to oversight functions performed by the college
2 student aid commission regarding certain restrictions and
3 requirements for schools offering postsecondary educational
4 programs and making penalties applicable.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 714.17, Code 2011, is amended to read as
2 follows:

3 714.17 Unlawful advertising and selling of educational
4 courses of instruction.

5 It shall be unlawful for any person, firm, association,
6 or corporation maintaining, advertising, or conducting in
7 Iowa any educational course ~~of instruction~~ for profit, or
8 for tuition charge, whether by classroom instructions, ~~or~~ by
9 correspondence, or by other delivery method to:

10 1. Falsely advertise or represent to any person any matter
11 material to ~~such~~ an educational course ~~of instruction~~. All
12 advertising of such courses ~~of instruction~~ shall adhere to and
13 comply with the rules and regulations of the federal trade
14 commission as of ~~July 4, 1965~~ July 1, 2010.

15 2. Collect tuition or other charges in excess of one hundred
16 fifty dollars in the case of educational courses offered by
17 ~~correspondence courses of study~~, in advance of the receipt and
18 approval by the pupil of the first assignment or lesson of such
19 course. Any contract providing for advance payment of more
20 than one hundred fifty dollars shall be voidable on the part of
21 the pupil or any person liable for the tuition provided for in
22 the contract.

23 3. Promise or guarantee employment utilizing information,
24 training, or skill purported to be provided or otherwise
25 enhanced by a an educational course, unless the promisor or
26 guarantor offers the student or prospective student a bona
27 fide contract of employment agreeing to employ said student
28 or prospective student for a period of not less than one
29 hundred twenty days in a business or other enterprise regularly
30 conducted by the promisor or guarantor and in which such
31 information, training, or skill is a normal condition of
32 employment.

33 Sec. 2. Section 714.18, subsection 1, Code 2011, is amended
34 to read as follows:

35 1. Except as otherwise provided in subsection 2, every

1 person, firm, association, or corporation maintaining or
2 conducting in Iowa any ~~such~~ educational course ~~of instruction~~
3 by classroom instruction or by correspondence or by other
4 ~~distance~~ delivery method, or soliciting in Iowa the sale of
5 such course, shall file with the college student aid commission
6 all of the following:

7 *a.* A continuous corporate surety bond to the state of
8 Iowa in the sum of fifty thousand dollars conditioned ~~for~~
9 on the faithful performance of all contracts and agreements
10 with students made by such person, firm, association, or
11 corporation, or their salespersons; but the aggregate liability
12 of the surety for all breaches of the conditions of the bond
13 shall not exceed the sum of the bond. The surety on the bond
14 may cancel the bond upon giving thirty days' written notice
15 to the college student aid commission and thereafter shall be
16 relieved of liability for any breach of condition occurring
17 after the effective date of the cancellation.

18 *b.* A statement designating a resident agent for the purpose
19 of receiving service in civil actions. In the absence of such
20 designation, service may be had upon the secretary of state if
21 service cannot otherwise be made in this state.

22 *c.* A copy of any catalog, prospectus, brochure, or other
23 advertising material intended for distribution in Iowa.
24 Such material shall state the cost of the educational course
25 offered, the schedule of tuition refunds for portions of the
26 educational course not completed, and if no refunds are to
27 be paid, the material shall so state. Any contract induced
28 by advertising materials not previously filed as provided in
29 this chapter shall be voidable on the part of the pupil or any
30 person liable for the tuition provided for in the contract.

31 Sec. 3. Section 714.18, subsection 2, paragraph a,
32 subparagraphs (1) and (4), Code 2011, are amended to read as
33 follows:

34 (1) A continuous corporate surety bond to the state of
35 Iowa in the sum of fifty thousand dollars or ten percent

1 of the total annual tuition collected, whichever is less,
2 conditioned ~~for~~ on the faithful performance of all contracts
3 and agreements with students made by such school. A school
4 desiring to file a surety bond based on a percentage of annual
5 tuition shall provide to the college student aid commission, in
6 the form prescribed by the commission, a notarized statement
7 attesting to the total amount of tuition collected in the
8 preceding twelve-month period. The commission shall determine
9 the sufficiency of the statement and the amount of the bond.
10 Tuition information submitted pursuant to this subparagraph
11 shall be kept confidential.

12 (4) The college student aid commission may accept a letter
13 of credit ~~from~~ issued by a bank in lieu of and for the amount
14 of the corporate surety bond required by this paragraph ~~"a"~~
15 subparagraphs (1) through (3), as applicable.

16 Sec. 4. Section 714.19, subsections 6 through 8, Code 2011,
17 are amended to read as follows:

18 6. Schools and educational programs conducted by firms,
19 corporations, or persons ~~for the training of their own~~
20 ~~employees,~~ for which no fee is charged.

21 7. Seminars, refresher courses, and schools of instruction
22 ~~sponsored~~ conducted by professional, business, or farming
23 organizations or associations for the members and employees of
24 members of such organizations or associations. A person who
25 provides instruction under this subsection who is not a member
26 or an employee of a member of the organization or association
27 shall not be eligible for this exemption.

28 8. Private business schools accredited by ~~the accrediting~~
29 ~~commission for business schools or an acknowledged~~ accrediting
30 agency recognized by the United States department of education
31 or the council for higher education accreditation.

32 Sec. 5. Section 714.19, Code 2011, is amended by adding the
33 following new subsection:

34 NEW SUBSECTION. 10. Private, nonprofit schools that are
35 eligible for state student financial aid programs authorized

1 under chapter 261.

2 Sec. 6. Section 714.22, Code 2011, is amended to read as
3 follows:

4 **714.22 Trade and vocational schools — exemption —**
5 **conditions.**

6 1. For the purposes of this section, a "trade or vocational
7 school" means one which provides a postsecondary educational
8 course that prepares a student for employment in a recognized
9 occupation.

10 2. a. The provisions of sections ~~714.17~~ 714.18 through
11 714.21 shall not apply to trade or vocational schools if they
12 meet either of the following conditions:

13 ~~1. (1)~~ (1) File a bond or a bond is filed on their behalf by
14 a parent corporation with the college student aid commission
15 as required by section 714.18.

16 ~~2. (2) File an annual sworn statement, or such statement is~~
17 ~~filed on their behalf by a parent corporation, certified by a~~
18 ~~certified public accountant, showing all assets and liabilities~~
19 ~~of the trade or vocational school and the assets of any parent~~
20 ~~corporation. The statement shall show the trade or vocational~~
21 ~~school's net worth, or the net worth of the school's parent~~
22 ~~corporation, to be is not less than five times the amount of~~
23 ~~the bond required by section 714.18. The trade or vocational~~
24 ~~school shall file with the college student aid commission an~~
25 ~~annual sworn statement, or such statement shall be filed on~~
26 ~~the school's behalf by a parent corporation, certified by a~~
27 ~~certified public accountant, showing all assets and liabilities~~
28 ~~of the trade or vocational school and the assets of any parent~~
29 ~~corporation. If a parent corporation files the statement or~~
30 ~~its net worth is included in the statement to comply with this~~
31 ~~subsection, the parent corporation shall appoint a registered~~
32 ~~agent and otherwise is subject to section 714.18, subsection~~
33 ~~1, paragraph "b", and is liable for the breach of any contract~~
34 ~~or agreement with students as well as liable for any fraud in~~
35 ~~connection with the contract or agreement or for any violation~~

1 of section 714.16 by the trade or vocational school or any of
2 its agents or salespersons.

3 b. For the purposes of this subsection, the net worth of a
4 trade or vocational school or the school's parent corporation,
5 as applicable, shall be determined by the amount the school's
6 or parent corporation's assets exceed its liabilities as shown
7 in the sworn statement required to be filed pursuant to this
8 subsection.

9 Sec. 7. Section 714.23, Code 2011, is amended by adding the
10 following new subsection:

11 NEW SUBSECTION. 0A. a. For the purposes of this section
12 and section 714.25, "*postsecondary educational program*" means
13 a series of postsecondary educational courses that lead to
14 a recognized educational credential such as an academic or
15 professional degree, diploma, or license.

16 b. For the purposes of this section, "*school period*" means
17 the course, term, payment period, postsecondary educational
18 program, or other period for which the school assessed tuition
19 charges to the student. A school that assesses tuition charges
20 to the student at the beginning of each course, term, payment
21 period, or other period that is shorter than the postsecondary
22 educational program's length shall base its tuition refund on
23 the amount of tuition costs the school charged for the course,
24 term, or other period in which the student terminated. A
25 school shall not base its tuition refund calculation on any
26 portion of a postsecondary educational program that remains
27 after a student terminates unless the student was charged for
28 that remaining portion of the postsecondary educational program
29 before the student's termination.

30 Sec. 8. Section 714.23, subsections 1 through 5, Code 2011,
31 are amended to read as follows:

32 1. A person offering a ~~course of instruction at the~~
33 ~~postsecondary level~~ postsecondary educational program, for
34 profit, that is more than four months in length and leads
35 to a ~~degree, diploma, or license~~ recognized educational

1 credential, shall make a pro rata refund of ~~no less than~~
2 ~~ninety percent of the tuition for~~ charges to a terminating
3 ~~student to the appropriate agency based upon~~ in an amount
4 that is not less than ninety percent of the amount of tuition
5 charged to the student multiplied by the ratio of completed
6 ~~number of scheduled school days to~~ the number of calendar days
7 remaining in the school period until the date equivalent to the
8 completion of sixty percent of the ~~scheduled school~~ calendar
9 ~~days of~~ in the school term or course period to the total number
10 of calendar days in the school period until the date equivalent
11 to the completion of sixty percent of the calendar days in the
12 school period.

13 2. Notwithstanding the provisions of subsection 1, the
14 following tuition refund policy shall apply:

15 a. If a terminating student has completed sixty percent or
16 more of a school ~~term or course that is more than four months in~~
17 length period, the person offering ~~the course of instruction a~~
18 postsecondary educational program that is more than four months
19 in length is not required to refund tuition ~~for~~ charges to the
20 student. However, if, at any time, a student terminates a
21 ~~school term or course~~ postsecondary educational program that is
22 more than four months in length due to the student's physical
23 incapacity or due to the transfer of the student's spouse's
24 employment to another city, the terminating student shall
25 receive a refund of tuition charges in an amount ~~which that~~
26 equals the amount of tuition charged to the student multiplied
27 by the ratio of the remaining number of ~~school~~ calendar days in
28 the school period to the total ~~school~~ number of calendar days
29 ~~of~~ in the school term or course period.

30 b. ~~A refund of ninety percent of the tuition for a~~
31 ~~terminating student shall be paid to the appropriate agency~~
32 ~~based upon the ratio of completed number of school days to the~~
33 ~~total school days of the school term or course.~~ A school shall
34 provide to a terminating student a refund of tuition charges
35 in an amount that is not less than ninety percent of the amount

1 of tuition charged to the student multiplied by the ratio of
 2 the remaining number of calendar days in the school period
 3 to the total number of calendar days in the school period.
 4 This paragraph "b" applies to those persons offering ~~courses~~
 5 ~~of instruction at the postsecondary level~~ a postsecondary
 6 educational program of more than four months in length, for
 7 profit, whose cohort default rate for students under the
 8 Stafford loan program as defined reported by the United States
 9 department of education for the most recent federal fiscal year
 10 is more than one hundred ten percent of the national average
 11 cohort default rate for that program for that period the same
 12 federal fiscal year or six percent, whichever is higher.

13 c. If a terminating student is a member, or the spouse
 14 of a member if the member has a dependent child, of the Iowa
 15 national guard or reserve forces of the United States and
 16 is ordered to state military service or federal service or
 17 duty, a person offering a postsecondary educational program
 18 that is more than four months in length shall provide to the
 19 terminating student a full refund of tuition and mandatory
 20 fees.

21 ~~3. If the financial obligations of a student are for three~~
 22 ~~or fewer months duration, this section does not apply. In the~~
 23 case of a program in which student progress is measured only in
 24 clock hours, all occurrences of calendar days in subsections 1
 25 and 2 shall be replaced with scheduled clock hours.

26 ~~4. Refunds~~ A refund of tuition charges shall be paid
 27 provided to the appropriate agency student within thirty days
 28 following the student's termination from a postsecondary
 29 educational program.

30 ~~5. A student who terminates a course of instruction or~~
 31 term postsecondary educational program shall not be charged
 32 any fee or other monetary penalty for terminating a course of
 33 instruction or term the postsecondary educational program,
 34 other than a reduction in tuition refund as specified in this
 35 section.

1 Sec. 9. NEW SECTION. **714.24 Additional requirements.**

2 1. A required filing of evidence of financial
3 responsibility pursuant to section 714.18 or 714.22 must be
4 completed at least once every two years.

5 2. A filing of a claim for an exemption pursuant to section
6 714.19 must be completed at least once every two years.

7 3. An entity that claims an exemption under section 714.19
8 must file evidence of financial responsibility pursuant to
9 section 714.18 or 714.22 within two business days following
10 the date upon which conditions that qualify the entity for an
11 exemption under section 714.19 no longer exist.

12 4. An entity that is required to file evidence of financial
13 responsibility under section 714.18 or 714.22, or an entity
14 that files a claim of exemption under section 714.19, shall
15 utilize required forms approved and supplied by the commission.

16 5. The commission and the attorney general may,
17 individually or jointly, adopt rules pursuant to chapter 17A
18 for the implementation of sections 714.18 through 714.25.

19 Sec. 10. Section 714.25, Code 2011, is amended to read as
20 follows:

21 **714.25 Disclosure.**

22 1. For purposes of this ~~chapter section~~, ~~unless the~~
23 ~~context otherwise requires~~, "*proprietary school*" means a person
24 offering a ~~course of instruction at the postsecondary level~~
25 postsecondary educational program, for profit, that is more
26 than four months in length and leads to a ~~degree, diploma, or~~
27 license recognized educational credential, such as an academic
28 or professional degree, diploma, or license.

29 2. A proprietary school shall, prior to the time a student
30 is obligated for payment of any moneys, inform the student, the
31 college student aid commission, and in the case of a school
32 licensed under section 157.8, the board of cosmetology arts
33 and sciences or in the case of a school licensed under section
34 158.7, the board of barbering, of all of the following:

35 a. The total cost of the ~~course of instruction~~ postsecondary

1 educational program as charged by the proprietary school.

2 *b.* An estimate of any fees which may be charged the
3 student by others which would be required if the student is
4 to successfully complete the course postsecondary educational
5 program and, if applicable, obtain a degree, diploma, or
6 license recognized educational credential.

7 *c.* The percentage of students who successfully complete
8 the course postsecondary educational program, the percentage
9 who terminate prior to completing the course postsecondary
10 educational program, and the period of time upon which the
11 proprietary school has based these percentages. The reporting
12 period shall not be less than one year in length and shall not
13 extend more than five years into the past.

14 *d.* If claims are made by the proprietary school as to
15 successful placement of students in jobs upon completion of the
16 course of study proprietary school's postsecondary educational
17 programs, the proprietary school shall provide the student with
18 all of the following:

19 (1) The percentage of graduating students who were placed
20 in jobs in fields related to the course of instruction
21 postsecondary educational programs.

22 (2) The percentage of graduating students who went on to
23 further education immediately upon graduation.

24 (3) The percentage of students who, ninety days after
25 graduation, were without a job and had not gone on to further
26 education.

27 (4) The period of time upon which the reports required by
28 paragraphs "a" through "c" were based. The reporting period
29 shall not be less than one year in length and shall not extend
30 more than five years into the past.

31 *e.* If claims are made by the proprietary school as to income
32 levels of students who have graduated and are working in fields
33 related to the proprietary school's course of instruction
34 postsecondary educational programs, the proprietary school
35 shall inform the student of the method used to derive such

1 information.

2 Sec. 11. Section 714.25, Code 2011, is amended by adding the
3 following new subsection:

4 NEW SUBSECTION. 3. The requirements of subsection 2 shall
5 not apply to a proprietary school that is eligible for federal
6 student financial aid under Tit. IV of the federal Higher
7 Education Act of 1965, as amended.